

AMENDED IN ASSEMBLY AUGUST 22, 2014

AMENDED IN ASSEMBLY AUGUST 5, 2014

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 199

Introduced by Senators De León, Evans, and Wolk

(Principal coauthors: Assembly Members Chesbro, Levine, and Yamada)

February 7, 2013

An act to amend, *repeal*, and *add* Sections 16250 and 16700 of the Penal Code, relating to BB devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, as amended, De León. BB devices.

Existing law prohibits a person from furnishing a BB device, defined to include a spot marker gun, to a minor without the permission of the minor's parent or guardian, and prohibits selling a BB device to a minor. Violation of either of these prohibitions is a crime. Existing law defines a BB device as any instrument that expels a projectile, such as a BB or pellet, that does not exceed 6 millimeters in caliber.

This bill would, *commencing January 1, 2016*, delete the 6 millimeter restriction from the definition of a BB device. By including a device that expels a BB or pellet that exceeds 6 millimeters in caliber within the definition of a BB device, this bill would expand the scope of existing crimes, and impose a state-mandated local program.

Existing law generally prohibits anyone from purchasing, selling, manufacturing, shipping, transporting, distributing, or receiving an imitation firearm. A person is liable for a civil fine of not more than \$10,000 for a violation of this prohibition. Existing law excludes all BB devices from the definition of imitation firearm for these purposes.

This bill would, *commencing January 1, 2016*, make BB devices that expel a projectile, such as a BB or a pellet, that is 6 millimeters or 8 millimeters in caliber subject to that prohibition *unless the devices meet specified coloration requirements*, and would exclude spot marker guns that expel a projectile larger than 10 millimeters in caliber from the prohibition.

Existing law, for purposes of regulating imitation firearms, adopts coloration and construction schemes prescribed by federal law. Existing law includes a cross-reference to those federal provisions.

This bill would delete the cross-reference to the federal provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 16250 of the Penal Code is amended to*
2 *read:*

3 16250. (a) As used in this part, “BB device” means any
4 instrument that expels a projectile, such as a BB or a pellet, not
5 exceeding 6mm caliber, through the force of air pressure, gas
6 pressure, or spring action, or any spot marker gun.

7 (b) *This section shall remain in effect only until January 1, 2016,*
8 *and as of that date is repealed, unless a later enacted statute, that*
9 *is enacted before January 1, 2016, deletes or extends that date.*

10 *SEC. 2. Section 16250 is added to the Penal Code, to read:*

11 16250. (a) As used in this part, “BB device” means any
12 instrument that expels a projectile, such as a BB or a pellet,
13 through the force of air pressure, gas pressure, or spring action,
14 or any spot marker gun.

15 (b) *This section shall be operative on January 1, 2016.*

16 *SEC. 3. Section 16700 of the Penal Code is amended to read:*

17 16700. (a) As used in this part, “imitation firearm” means any
18 BB device, toy gun, replica of a firearm, or other device that is so
19 substantially similar in coloration and overall appearance to an

1 existing firearm as to lead a reasonable person to perceive that the
2 device is a firearm.

3 (b) As used in Section 20165, “imitation firearm” does not
4 include any of the following:

5 (1) A nonfiring collector’s replica that is historically significant,
6 and is offered for sale in conjunction with a wall plaque or
7 presentation case.

8 (2) A BB device.

9 (3) A device where the entire exterior surface of the device is
10 white, bright red, bright orange, bright yellow, bright green, bright
11 blue, bright pink, or bright purple, either singly or as the
12 predominant color in combination with other colors in any pattern,
13 as provided by federal regulations governing imitation firearms,
14 or where the entire device is constructed of transparent or
15 translucent materials which permits unmistakable observation of
16 the device’s complete contents, as provided by federal regulations
17 governing imitation firearms.

18 (c) *This section shall remain in effect only until January 1, 2016,*
19 *and as of that date is repealed, unless a later enacted statute, that*
20 *is enacted before January 1, 2016, deletes or extends that date.*

21 *SEC. 4. Section 16700 is added to the Penal Code, to read:*

22 *16700. (a) As used in this part, “imitation firearm” means*
23 *any BB device, toy gun, replica of a firearm, or other device that*
24 *is so substantially similar in coloration and overall appearance*
25 *to an existing firearm as to lead a reasonable person to perceive*
26 *that the device is a firearm.*

27 (b) As used in Section 20165, “imitation firearm” does not
28 include any of the following:

29 (1) A nonfiring collector’s replica that is historically significant,
30 and is offered for sale in conjunction with a wall plaque or
31 presentation case.

32 (2) A spot marker gun which expels a projectile that is greater
33 than 10mm caliber.

34 (3) A BB device that expels a projectile, such as a BB or pellet,
35 that is other than 6 mm or 8 mm caliber.

36 (4) A BB device that is an airsoft gun that expels a projectile,
37 such as a BB or pellet, that is 6 mm or 8 mm caliber which meets
38 the following:

39 (A) *If the airsoft gun is configured as a handgun, in addition to*
40 *the blaze orange ring on the barrel required by federal law, the*

1 airsoft gun has a trigger guard that has fluorescent coloration
2 over the entire guard, and there is a two centimeter wide adhesive
3 band around the circumference of the protruding pistol grip that
4 has fluorescent coloration.

5 (B) If the airsoft gun is configured as a rifle or long gun, in
6 addition to the blaze orange ring on the barrel required by federal
7 law, the airsoft gun has a trigger guard that has fluorescent
8 coloration over the entire guard, and there is a two centimeter
9 wide adhesive band with fluorescent coloring around the
10 circumference of any two of the following:

11 (i) The protruding pistol grip.

12 (ii) The buttstock.

13 (iii) A protruding ammunition magazine or clip.

14 (5) A device where the entire exterior surface of the device is
15 white, bright red, bright orange, bright yellow, bright green, bright
16 blue, bright pink, or bright purple, either singly or as the
17 predominant color in combination with other colors in any pattern,
18 or where the entire device is constructed of transparent or
19 translucent materials which permits unmistakable observation of
20 the device's complete contents.

21 (c) The adhesive bands described in paragraph (4) of
22 subdivision (b) shall be applied in a manner not intended for
23 removal, and shall be in place on the airsoft gun prior to sale to
24 a customer.

25 (d) This section shall be operative on January 1, 2016.

26 SEC. 5. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

35 SECTION 1. ~~Section 16250 of the Penal Code is amended to~~
36 ~~read:~~

37 16250. As used in this part, "BB device" means any instrument
38 that expels a projectile, such as a BB or a pellet, through the force
39 of air pressure, gas pressure, or spring action, or any spot marker
40 gun.

1 SEC. 2. Section 16700 of the Penal Code is amended to read:

2 16700. (a) As used in this part, “imitation firearm” means any
3 BB device, toy gun, replica of a firearm, or other device that is so
4 substantially similar in coloration and overall appearance to an
5 existing firearm as to lead a reasonable person to perceive that the
6 device is a firearm.

7 (b) As used in Section 20165, “imitation firearm” does not
8 include any of the following:

9 (1) A nonfiring collector’s replica that is historically significant,
10 and is offered for sale in conjunction with a wall plaque or
11 presentation case.

12 (2) A spot marker gun which expels a projectile that is greater
13 than 10mm caliber.

14 (3) A BB device that expels a projectile, such as a BB or pellet,
15 that is other than 6 mm or 8 mm caliber.

16 (4) A device where the entire exterior surface of the device is
17 white, bright red, bright orange, bright yellow, bright green, bright
18 blue, bright pink, or bright purple, either singly or as the
19 predominant color in combination with other colors in any pattern;
20 or where the entire device is constructed of transparent or
21 translucent materials which permits unmistakable observation of
22 the device’s complete contents.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.